

MINUTES

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE

April 29, 2010

1:00 p.m.

Room 544, LEGISLATIVE OFFICE BUILDING

The Joint Legislative Transportation Oversight committee met Thursday, April 29, 2010 in Room 544 of the Legislative Office Building. Senator Goss, presiding Chair, called the meeting to order. The following members were present: Representative Nelson Cole, Co-Chair, Senator Phil Berger, Senator David Hoyle, Senator Neal Hunt, Senator Richard Stevens, Representative Lorene Coates, Representative James Crawford, Representative William Current, Representative Grier Martin, and Representative Arthur Williams (Advisory Member). Bob Weiss, Anna Cameron, Karlynn O'Shaughnessy, Mark Bondo and Wendy Ray of the Fiscal Research staff, Giles Perry, Committee Counsel, Daladier Miller and Anne Murtha Committee Assistants.

Chairman Goss recognized and thanked Bob Rossi, Martha Parrish, Mike Martin, Dan McLennart of the House Sergeant-At-Arms staff and Chester White and Robert Young of the Senate Sergeant-At-Arms staff for their assistance.

Next meeting will be Tuesday, May 11, 2010 at 1:00 p.m. in Room 1027, Legislative Building. The minutes from the April 6, 2010 meeting were approved; motioned by Representative Lorene Coates and seconded by Representative Nelson Cole.

PRESENTATION

Update on the Charlotte Area Transit System

Carolyn Flowers, Chief Executive Officer, Director of Public Transit, City of Charlotte, NC

A copy of Carolyn Flowers' presentation on the Update on the Charlotte Area Transit System is included in these minutes as Attachment #1.

Charlotte is facing issues with rapid transit and land use integration due to population growth, projected growth of 1.2 million to 1.7 million people, along with more city square miles. Air quality is becoming another factor, the region has been designated as non-attainment, which could effect federal highway and transit funding in the future. The Charlotte Area Transit System (CAT) researched the most effective means to provide public transportation in the Charlotte/Mecklenburg and surrounding area. CAT has adopted the Portland, Oregon smart growth transit model with its proven success with traffic congestion, air quality, suburban sprawl and land use integration.

In the 2025 CAT Rapid Transit Plan, growth will be focused along five transportation corridors, the modes include: bus rapid transit guideways, commuter rail, light rail systems, streetcar and enhanced bus services. CAT will develop policies necessary to support transit and pedestrian friendly communities along sustainable community areas.

CAT received support from the General Assembly through legislation to pass a ½ cent sales tax to fund public transit. In 2007, the voters reaffirmed commitment to public transit through initiatives and future commitment to sales tax to fund rapid transit. This sales tax increase has expanded the CAT system from a small network to a more robust transit network that extends out to the neighboring counties and includes light rail service.

CAT has experienced a major increase in ridership and public support that surpassed the 20 year plan for ridership. Metro Transit Commission (MTC) adopted land use guidelines to promote connectivity and the inter-operability between all of the transportation modes. This increased land use development along the light rail line – LYNX line has generated \$16M annually in property tax up from \$6M in 2003, the additional tax revenue can be reinvested in public services and other infrastructure improvements in the area.

CAT Legislative Agenda:

In the past two years, the area has lost five years worth of sales tax increase and growth due to the current economic climate. CAT understands the state has challenges with their budget.

- Assistance from the state to maintain core business and provide services.
- Options for the additional ability to collect sales taxes in the future.
- Expand the state assistance ‘pot’ to include light rail ridership in the formula for funding.
- Seek state matching funds from federal funding for northeast corridor expansion – 50% or more from the state of the local share for transit projects in the future.
- Increase annual state budget appropriation for public transit projects: capital, operating assistance and new starts. Statewide support of public transit for all public transit authorities in the state.

PRESENTATION

Driver Inattention

Arthur Goodwin, Senior Research Associate, UNC Highway Safety Research Center

Robert D. Foss, Ph.D, Senior Research Scientist and Director,
Center for the Study of Young Drivers

A copy of Robert D. Foss and Arthur Goodwin’s Driver Inattention presentation is included in these minutes as Attachment #2.

Overview on distracted driving:

- What we know and don’t know about distractions and crashes
- Policy efforts to reduce distractions and distracted crashes
- Big picture about nature of driving distracted
- Future legislation concerning distracted driving

Little research has been done on distracted driving compared to drunk driving and seat belt usage. 95% of distracted driving research focused on cell phone distractions. Distracted driving accidents leave no evidence after the crash. Police crash report forms do not have an area to indicate distracted driving. Drivers are 4 times more likely to have a serious crash when hand held cell phones and even hands free phones are a factor. Both hand held and hands free phones are equally distracting for the driver. Talking on a cell phone is a cognitive distraction between driving and having a conversation. Hands free phones offer NO safety advantage over hand held cell phones. Talking with a passenger is not a safety factor because the passenger acts as a co-driver and can point out hazards. Risk of talking on a cell phone is equally as dangerous to driving legally drunk with a blood alcohol level of .08 or .10 due to slowed reaction time. A driver is 8 times more likely to be involved in a crash when texting and driving. Seven states and the District of Columbia ban hand held cell phone usage for all drivers – this does not cover hands free cell phones. Half the states restrict teens from any type of cell phone usage. Studies have been conducted to see if these laws have been effective to reduce cell phone use, after a year most people return to cell phone use. Making people aware of the laws and enforcing the laws is essential to making these laws work.

Type, degree and duration of distraction vary and prevent a driver from focusing on driving. Kinds of distractions for drivers are physical, visual and cognitive distraction. Note that we 'drive with our brain' – the brain uses the eyes, hands and feet to maintain safe driving with the emphasis on the brain focusing on the task of driving. Slower reaction times occur when the driver is distracted. "In-attentional blindness" is when a driver looked but did not see (the red light, the child in the street, the car pull in front of them for example) because they were focused on something else and is the cause of many accidents. In January 2009, the National Safety Council estimated that a quarter of the crashes were related to cell phone use and 28% to texting and recommended prohibiting all forms of cell phone usage. Dr. Foss recommends legislation to mandate cell phones are inoperable in moving cars.

COMMENT

Joe Capowski, Former Town Council Member, Vice Mayor, Retired University of North Carolina Faculty Member and computer design engineer

Please help us keep University of North Carolina students safe by outlawing cell phone use while driving. Chapel Hill held a forum on outlawing cell phone use and is waiting for the results of the NCGA study. There is no telephone call so important to endanger the lives of others as a drunk driver does.

COMMENT

Lieutenant Colonel Wellington Scott,
Director of Field Operations, North Carolina Highway Patrol

If you have to use a cell phone while driving, you need to pull over to the side of the road. There is no safe way to use a phone in a car. It is very difficult to drive when distracted by

talking on a cell phone. We need to look at the studies and the data and gather more data on this problem. Since the beginning of 2010, driver inattentiveness was the contributing factor in 1,751 collisions. In 2009, 5,839 collisions were due to driver inattentiveness. The Highway Patrol does not have a code on the citation form – Form 349 – for driver inattentiveness. The NC Department of Transportation (NC DOT) and the Department of Motor Vehicles (DMV) own the crash report Form 349. The Highway Patrol is willing to work with NC DOT and DMV to amend Form 349 to include a check box for inattentive driving. One approach the NC Highway Patrol is taking is to educate high school students about the hazards of texting while driving and other driver safety programs. The Highway Patrol has issued 228 citations for texting while driving since the law passed through observation.

PRESENTATION

North Carolina Department of Transportation [NC DOT] Reform Update
Jim Trogden, Chief Operating Officer, DOT

A copy of Jim Trogden's presentation on the DOT Reform Update is included in these minutes as Attachment #3.

Transportation reform was requested by the public for more accountability and better performance. Governor Perdue issued Executive Order 2: reform how we use our board and how we deliver transportation and Executive Order 3: to all state departments – more transparency and accountable in how they conduct business.

The North Carolina Department of Transportation wanted to ensure they use their limited resources wisely. Three directives: 1) Work diligently to restore trust and confidence 2) Use existing resources as effectively as they can 3) Long term strategy for better delivery and transportation in the future and implement that.

Jim Trogden went through his slide presentation which included:

- **Strategic Prioritization Process** – Data-driven system evaluating State Transportation Improvement Program (STIP) projects based on: traffic counts; congestion/capacity; local priorities; regional priorities. List is posted on the [NCDOT](http://www.ncdot.gov) website.
- **Next Steps for the Strategic Prioritization Process** – Apply financial and scheduling constraints such as Federal and State laws. Draft list of STIP; Board of Transportation will vote in June/July 2010 to release the work; Board will authorize NCDOT staff to take draft STIP to the – MPOs and RPOs and then the public for comment
- **Funding Snapshot**
 - Highways: total identified needs (2015 – 2020) = \$45 billion; 9 billion in revenue anticipated
 - Non-highways: total identified needs (2015 – 2020) = \$9 billion; 1.5 billion in revenue anticipated
 - Summary: \$54 billion in total identified transportation needs (2015 – 2020)

- **Not Prioritized Using Model** – Some transit and other multimodal projects were unable to rank using the same criteria as road projects. Modal Divisions prioritize needs based on pre-existing criteria.
- **Urban Loop Projects and Prioritization** – Separate process examining a different ranking system within the 10 urban areas for loop projects. Do not apply to the Equity Formula. Proposed scoring methodology was revised after first round of feedback. NCDOT will release results of Urban Loop Prioritization in June 2010.
- **Urban Loop Prioritization Formula Components**
 - Needs Factors – Congestion 10%; Safety 5%
 - Benefits Factors – Travel time savings 25%; Economic development 15%; Freight volume 10%; Total traffic 10%; Multi-modal 5%; Protected right-of-way 10%; Connectivity 10%
 - Cost – developed in conjunction with the urban areas. Address critical factors that drive urban loops.
- **Investment Strategy**
 - Define level of funding by tier in all categories; each category will have a proposed budget once the level is determined; regional summits for Metropolitan Planning Organization (MPO) and Rural Planning Organization (RPO) input – Kinston, Greensboro and Morganton
- **Timeline**
 - April 2010: Regional investment strategy summits held with planning partners; apply equity and scheduling constraints; loop prioritization projects rolled in
 - June 2010: Board of Transportation (BOT) authorizes release of work and draft STIP for public comment
 - June/July 2010: One-on-one meetings with MPOs and RPOs and public outreach
 - June 2011: BOT adopts final STIP
- **NC Mobility Fund** – new program to fund projects of statewide significance to address critical congestion and improve NC's logistics capabilities and competition in a global economy. New solution to an old problem that has been difficult to solve. Phased in over 3 years starting in fiscal year 2011 through 2013.
 Example: Yadkin River Bridge/I-85 widening project costing \$300 million – necessary because congestion impacts the economy and job creation; critical congestion effects the entire state across all modes of transportation; and funding for large statewide projects places an unrealistic burden on regional transportation plans.
 - Proposal – Create an NC Mobility Fund with an annual funding target of \$300 million per year phased in over 3 years – ½ from existing General Fund starting with \$22 million of the remaining Highway Trust Fund transfer and ½ from modest DMV and Highway Use Tax (HUT) increases. Available for all statewide logistics needs – aviation, transit, rail, ports and ferry
 - NC Mobility Fund will benefit communities of all sizes – congestion projects that benefit the entire state will not be a burden on neighboring communities. Interstate maintenance = \$30 million per year; Municipal Powell Bill – 6.5% of Mobility Fund builds up to \$20 million per year (distribution based on lane miles); Statewide mobility projects will initially be pay-as-you-go, up to \$250 million per year, more dollars with possible use of leverage

- NC Mobility Fund selection - First Project: Yadkin River Bridge/I-85 widening – 1st half of the project was funded by a TIGER Grant, 2nd half of the project is the widening of the interstate with completion of the entire project by 2012. Then develop a unique prioritization model developed in collaboration with local governments, stakeholders and general public.

PRESENTATION

I-95 Corridor Planning and Finance Study

Roberto Canales, Secretary's Coordinator of Strategic Initiatives, DOT

A copy of Roberto Canales' presentation is included in these minutes as Attachment #4.

Background – I-95 corridor from Virginia to South Carolina has not changed since it was built in the 1950s – 1980s. NCGA conducted a tolling feasibility study in 2003 which determined that I-95 lent itself greatly to tolling. In 2006, TIP project I-4745 which covered the Benson I-40 area to Fayetteville was put on hold to look at the entire corridor. The I-95 Corridor planning and finance study was proposed in 2009 to pinpoint the deficiencies and needs of I-95.

The study would create a master plan for corridor improvements and streamline development of future projects. NCDOT has two consultants examining project elements, Baker reviewing environmental screening; traffic forecast model; and public involvement. PBS&J will evaluate needs assessment; alternatives analysis; the financial model; and the phasing and implementation plan.

The environmental screening of wetlands, cultural resources, and historic properties will evaluate a half mile band on either side of the interstate. This investigation will become a formal planning document. A demographics analysis ten miles on either side of the corridor will examine the general public, their needs and how this project will affect them.

Baker is working on a comprehensive traffic model to provide information about existing and future traffic volumes (through 2035). The type of vehicles (cars versus trucks) and the types of trips (regional versus local) utilizing the corridor. If tolling becomes the finance mechanism for rebuilding this highway, what affects will this have on the general public, the parallel routes and the crossing routes?

Public Involvement for this project:

A local meeting was conducted in January 2010. An editorial Board meeting was held in March 2010 and public meetings are scheduled for summer 2010 and fall 2011.

- Website: <http://driving95.com>
- Social media outlets - Facebook and Twitter
- Hotline 1-877-I95-VIEW in English and Spanish

Needs assessment will determine the existing condition and future needs of pavement; structures (bridges and overpasses); traffic capacity; roadway safety; and drainage. The

alternatives analysis will develop preliminary improvement alternatives and consider number of lanes; median width and approximate right of way. This analysis will eliminate impracticable alternatives and provide preliminary cost estimates.

Tolling is a potential financial model to pay for this project. The funding options have been discussed at local meetings and include: traditional funding; tolling which could entail tolls at the borders; tolls for all lanes; toll new lanes and other possibilities. How would tolling be enforced? How and where can we use the money collected through tolls. Another finance option would be a local tax.

House Bill 1245

- Task: NCDOT to Study Tolling at State Lines/Other States. I-95 was used as a study example.
- Results: Tolling the entire corridor will produce 10 times the revenue than border tolling (approximately 20 years to reconstruct all of I-95). Border tolling won't address long-term needs and only produces enough revenue to build 1 mile/year (approximately 182 years to reconstruct all of I-95).

Study deliverables and project timeline: The I-95 corridor planning and finance study began in October 2009. Completion of the study is projected for fall 2011 and will identify a final set of recommendations with a financial model and a phasing and implementation plan to address the needs of I-95. NCDOT has worked with a large numbers of entities to talk about how and what we should do with this road.

PRESENTATION

North Carolina Department of Transportation Legislative Agenda
2009-RWz-28 Motor Vehicles Law Changes
2009-RWz-29 DOT Powers and Duties Changes
Joanna Reeves, NCDOT

A copy of the NCDOT proposals are included in these minutes as Attachment #5 and #6.

Joanna Reeves walked through NCDOT proposals

- 2009-RWz-28 Motor Vehicles Law Changes
- 2009-RWz-29 DOT Powers and Duties Changes

2009-RWz-28 Motor Vehicles Law Changes

Section 1 - The Commissioner, subject to the approval of the Secretary of the Department of Transportation, shall organize and administer the Division in such manner as he may deem necessary to conduct the work of the Division. "The Commissioner shall have authority to transfer employees of the Division, upon request of the employee, from one locality in the State to another as the Commissioner may deem necessary. Any transfers under this section shall be to a position in the same salary grade as the position the employee is leaving."

Section 2 – A commercial driver license shall expire on the birth date of the licensee in the fifth year after issuance.

Section 3, page 3 –Strike this section- Permit for emergency use of registration plate.

The Commissioner may, if in his opinion it is equitable, grant to the licensee a special permit for the use of a registration plate on a vehicle other than the vehicle for which the plate was issued, when the vehicle for which such plate was issued is undergoing repairs in a regular repair shop or garage. Application for such permit shall be made on forms provided by the Division and must show, in addition to such other information as may be required by the Commissioner, that an emergency exists which would warrant the issuance of such permit.

Such permit shall be evidenced by a certificate issued by the Commissioner and which shall show the time of issuance, the person to whom issued, the motor number, serial number or identification number of the vehicle on which such plate is to be used and shall be in the immediate possession of the person operating such vehicle at all times while operating the same. And such certificate shall be valid only so long as the vehicle for which the registration plate has been issued shall remain in the repair shop or garage but not to exceed a period of days from its issuance. The person to whom the permit provided in this section is issued shall be liable for any additional license fees or penalties that might accrue by reason of the provisions of G.S. 20-86 and 20-96 of the General Statutes.

Section 4 and Section 5 go together – Address abuse of transporter plates across the state. A law enforcement officer having probable cause to believe that a transporter plate is being used in violation of this section may seize the plate.

Section 6, page 8 – Clarify statute for a single Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate

Section 7 – "§ 20-85.1. Registration by mail; one-day title service; fees. – remove the one dollar fee.

Section 8 – Checked with Forestry Association – they have no opposition to this.

G.S. 20-88.02 is repealed. Current text of G.S. 20-88.02:

35 § 20-88.02. Registration of logging vehicles. Upon receipt of an application on a form prescribed by it, the Division shall register trucks, tractor trucks, trailers, and semitrailers used exclusively in connection with logging operations in a separate category. For the purposes of this section, "logging" shall mean the harvesting of timber and transportation from a forested site to places of sale. Fees for the registration of vehicles under this section shall be the same as those ordinarily charged for the type of vehicle being registered.

Section 9 – § 20-130.1. Use of red or blue lights on vehicles prohibited; exceptions. - An Incident Management Assistance Patrol vehicle operated by the Department of Transportation. This change is for protection of DOT employees.

Section 10 – Abuse of transporter plates to this enforcement statute.

2009-RWz-29 DOT Powers and Duties Changes

Section 1 – G.S. 136-11 is repealed. Current text of G.S. 136-11: 7 § 136-11. Annual reports to Governor. The Department of Transportation shall make to the Department of Administration, or to the Governor, a full report of its finances and the physical condition of buildings, depots and properties under its supervision and control, on the first day of July of each year, and at such other times as the Governor or Directors of the Budget may call for the same.

Section 2 – Technical change – DOT has a CFO not a Controller.

Section 3 – One of several places: Remove 7 year reference to NCDOT Transportation Improvement Program (TIP)

Section 4 – Change Highways to Transportation to reflect expanded mission of NCDOT.

Section 5 – Another Strike 7 year reference for NCDOT TIP

Section 6 – Authority that DOT can enter into agreements with municipalities, counties, governmental entities, or nonprofit corporations to receive funds for the purpose purposes of advancing right-of-way acquisition

Section 7 – One of several places to reflect that the Turnpike Authority is now a part of DOT

Section 8 - Remove a reporting requirement - The Department shall report on its progress in expanding public access to coastal waters to the Joint Legislative Commission on Seafood and Aquaculture and to the Joint Legislative Transportation Oversight Commission no later than March 1 of each year.

Section 9 – Several changes based on most recent studies. Name change and rewritten to reflect Federal guidelines to set goals every 3 years - § 136-28.4. State policy concerning participation by disadvantaged minority-owned and women-owned businesses in highway transportation contracts.

Section 10 – Strike - No TIP Disadvantage for Participation. – If a county or municipality participates in a State transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).

Strike - (c3) Limitation on Agreements. – The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

Section 11 – Clarify "§ 136-89.189. Turnpike Authority is now part of DOT

Section 12 – Mistake - We are not requesting this section.

Section 13 and Section 15 – Authority for rule making – The Secretary or the Secretary's designee shall be vested with authority to promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

Section 14 – Strike the 7 year reference

Section 16 – Turnpike Authority is now part of DOT.

PRESENTATION

North Carolina Department of Transportation Legislative Agenda
2009-RWz-30 Turnpike Authority Toll Enforcement Changes
Beau Memory, NCDOT

A copy of the NCDOT proposal is included in these minutes as Attachment #7.

Beau Memory walked through 2009-RWz-30 Turnpike Authority Toll Enforcement Changes. The Turnpike enforcement statutes were passed in 2008 and were necessary to secure financing with the Triangle Expressway under construction and the all electronic toll

system being installed. These changes were necessary to ensure that the system operates efficiently and that there is an equitable toll rate set for customers.

2009-RWz-30 Turnpike Authority Toll Enforcement Changes

Section 1 – Toll rates to be set based on market demands. § 136-89.211. Tolls for use of Turnpike project. This does not preclude the Authority from allowing a discount for a motor vehicle equipped with an electronic toll collection transponder or a motor vehicle that has pre-paid its toll.

Section 2 – Technical change

Section 3 – § 136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll. Adjust payment period for customers to the date of the invoice sent by the Authority.

Section 4 - § 136-89.216. Civil penalty for failure to pay open road toll. Adjust payment period for customers to the date of the invoice sent by the Authority.

Section 5 – § 136-89.217. Vehicle registration renewal blocked for unpaid open road toll. Strike - administrative burden on DMV (b) Collection by DMV. – A person whose motor vehicle registration renewal is blocked under this section may pay to the Division of Motor Vehicles of the Department of Transportation the amount owed for unpaid tolls, processing fees, and civil penalties due under this Part when renewing the vehicle registration. The Division must remit to the Authority the amount of tolls, fees, and civil penalties collected. The Division's costs of collecting tolls, fees, and civil penalties are considered a necessary expense of the operation of the Authority, and the Authority must reimburse the Division for these costs."

Section 6 – § 136-89.218. Procedures for contesting liability for unpaid open road toll. Adjust payment period for customers to the date of the invoice sent by the Authority.

PRESENTATION

North Carolina General Assembly – Proposed Legislation
2009-RWz-27 Bicycle Safety Changes -- Representative Nelson Cole
2009-RWz-26 Regulate Towing from Private Lots – Senator Rucho

A copy of the proposals is included in these minutes as Attachment #8 and #9.

2009-RWz-27 Bicycle Safety Changes – This draft legislation came about through complaints from constituents and law enforcement. It appears we have no laws that apply to bicycle etiquette. This legislation exists in many other states. We have had several deaths that brought this to light.

§ 20-171.3. Operation of bicycles on streets and highways. - Bicyclists riding bicycles upon a street or highway shall not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane. Persons riding two abreast shall move into a single file formation as quickly as is practicable when being overtaken from the rear by a faster moving vehicle.

2009-RWz-26 Regulate Towing from Private Lots – Citizen in Mecklenburg County had his vehicle towed on a weekend. The vehicle was towed 40 miles away and put in storage that had no sign on it and resulted in an enormous bill. Senator Rucho will present this bill.

§ 20-219.2. Removal of unauthorized vehicles from private lots. - Any vehicle removed pursuant to this section shall not be transported for storage more than 15 miles from the place of removal. (a2) Any person or company that tows or stores a vehicle pursuant to this section shall charge reasonable fees for the services rendered, and any fee charged shall not exceed the fee for other service calls the person or company provides for the same service, labor, and conditions.

The meeting adjourned at 3:00 P.M.

Senator Steve Goss, Co-Chair

Representative, Nelson Cole, Co-Chair

Anne R. Murtha, Committee Assistant